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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,210

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Jan Tuma

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1609 7590 11/17/2008  
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EXAMINER

THOMAS, ALEXANDER S

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

11/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,210	<b>Applicant(s)</b> TUMA, JAN	
	<b>Examiner</b> Alexander Thomas	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/3/06</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on 10/2/08 is acknowledged. The traversal is on the ground(s) that no clear showing that the product of claim 1 is not novel in view of the cited reference. This is not found persuasive because the fact that the international search report disclosed the cited reference as an X reference clearly shows that the product of claim 1 is not novel in view of the cited reference.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

2. The disclosure is objected to because of the following informalities: the reference to claim 1 on page 1 must be deleted because the specification must be complete in and of itself.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The meaning and scope of the phrase "an energy storage device , ... in thick or thin film technology" is not understood and there is no disclosure that explains its intended meaning.

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3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1, 9, 10 and 12, the phrases "for example", "especially" and "such as" render the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. Also, there is no antecedent basis for the term "adhesive fastener elements" in claims 7-9 and "adhesive fastener component" in the preamble of claims 2-12.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 7, 8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen 2003/0042249. Chen discloses a fastener component comprising a flat carrier layer 10 with closing (i.e. fastener) elements 141 on one surface and an electrical heating element 11 on one surface supplied with energy by a power source 12; see [0018]. Concerning claims 3-5 and 8, the various process limitations do not add any further structurally distinguishing features to the final product. Concerning claim 7,

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since the various parts of the product disclosed in Chen are attached together they can be said to be integral with one another.

6. Claims 1-8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ball et al 4,696,066. Ball et al disclose a fastener component comprising a flat carrier layer 28, 29 with closing (i.e. fastener) elements 17 on one surface and an electrical heating element 22 on one surface; see the Figures and column 1, lines 63-67. Concerning claims 3-5 and 8, the various process limitations do not add any further structurally distinguishing features to the final product. Concerning claim 7, since the various parts of the product disclosed in Ball et al are attached together they can be said to be integral with one another. Concerning claim 11, the layers 27, 28, 29 and 30 in the product of the reference can be textile material and the heater element 22 is located between a pair of these layers; see column 2, lines 21-49.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen 2003/0042249. Chen discloses a fastener component comprising a flat carrier layer 10 with closing (i.e. fastener) elements 141 on one surface and an electrical heating element 11 on one surface supplied with energy by a power source 12; see [0018]. It would have been obvious to one of ordinary skill in the art to add additional

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layers to the carrier layer to increase strength or other properties of the laminate since a duplication of parts is within the purview of one of ordinary skill in the art. The examiner takes official notice of the fact that it is well-known in the art to make hook/loop fasteners from polymer plastics. It would have been obvious to one of ordinary skill in the art to make the hook/loop fasteners in the product of the reference from plastic since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ball et al 4,696,066. Ball et al disclose a fastener component comprising a flat carrier layer 28, 29 with closing (i.e. fastener) elements 17 on one surface and an electrical heating element 22 on one surface; see the Figures and column 1, lines 63-67. The examiner takes official notice of the fact that it is well-known in the art to make hook/loop fasteners from polymer plastics. It would have been obvious to one of ordinary skill in the art to make the hook/loop fasteners in the product of the reference from plastic since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

### ***Double Patenting***

10. Claims 1-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of copending Application No. 10/541,827. Although the conflicting claims are not identical,

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they are not patentably distinct from each other because the electrical component and/or circuit in the copending claims is structural indistinct from the instantly claimed heating element. Any electrical circuit or component will heat up to a degree when used and therefore can be said to be a heating element. It would have been obvious to one of ordinary skill in the art to use textile layers as the various layers in the copending claims depending on the particular end use of the product, such as in garments, etc.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/  
Primary Examiner  
Art Unit 1794